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IN THE

Supreme Court of the United States

OCTOBER TERM, 1965

No. 204

MID-FLORIDA TELEVISION CORP., *Petitioner*

v.

FEDERAL COMMUNICATIONS COMMISSION AND WORZ, INC., *Respondents*

MOTION TO DIRECT THE FEDERAL COMMUNICATIONS COMMISSION AND THE SOLICITOR GENERAL TO FILE A STATEMENT OF THEIR POSITION

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PRESS OF BYRON S. ADAMS, WASHINGTON, D. C.

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Mid-Florida Television Corp., petitioner herein, respectfully moves this Court to issue an order directing the Federal Communications Commission and the Solicitor General to file a statement of their position on the pending Petition for a Writ of Certiorari to the United States Court of Appeals for the District of Columbia filed by Mid-Florida on June 1, 1965. In support whereof, the following is shown:

1. On June 1, 1965, Mid-Florida filed a Petition for a Writ of Certiorari requesting this Court to review a final judgment of the Court of Appeals for the District of Columbia Circuit entered on March 4, 1965. This decision remanded a final decision of the Federal Communications Commission to that agency for a new comparative television hearing on the application of Mid-Florida for a television station on Channel 9 in Orlando, Florida, and directed the Commission to accept and consider any other applications which might be filed for the facility. In its Petition for a Writ of Certiorari, Mid-Florida asserted that the Court of Appeals' decision should be reviewed by the Supreme Court because it involved an unprecedented and, in its view, unwarranted intrusion by the Court of Appeals into the administrative functions of the Federal Communications Commission. Mid-Florida asserted that the rationale of the Court of Appeals to require a new hearing and to accept new applications to be filed for Channel 9 in Orlando involved the exercise of administrative functions rather than judicial functions and that the Court had, in effect, usurped the role of the Federal Communications Commission in a matter committed to it by Congress.

2. The Federal Communications Commission filed a brief before the Court of Appeals supporting the decision of the Commission and urging that the grant of the license to Mid-Florida should be affirmed by that Court. However, neither the Federal Communications Commission nor the Solicitor General has filed a statement in support of, or opposition to, the Petition for a Writ of Certiorari of Mid-Florida. The questions which Mid-Florida has raised in the Petition For A Writ of Certiorari involve fundamental matters affect-

ing the relationship between the Court of Appeals for the District of Columbia Circuit and the Federal Communications Commission. These matters include the role of the Court of Appeals *vis-a-vis* the Commission and the distribution of power and responsibility between them. These are areas of sensitive public concern. Despite the patent importance of the case not only to Mid-Florida but to the agency involved, the Federal Communications Commission has not seen fit to appraise this Court of its position on the pending Petition for A Writ of Certiorari.

3. Mid-Florida urges the Court to direct the Federal Communications Commission and the Solicitor General to transmit a statement of their position on the pending Petition of Mid-Florida. Mid-Florida has raised serious questions intimately affecting that agency. The Court is entitled to be appraised of the views of the Federal Communications Commission before proceeding further in this matter.

Respectfully submitted

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July 15, 1965.

I, Paul Dobin, do hereby certify that I have this 15th day of July, 1965 sent by first class United States mail, postage prepaid, a copy of the foregoing MOTION TO DIRECT THE FEDERAL COMMUNICATIONS COMMISSION AND THE SOLICITOR GENERAL TO FILE A STATEMENT OF THEIR POSITION to the following:

Archibald Cox, Esq.
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/s/ PAUL DOBIN